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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/348,469	07/07/1999	AUSTIN GERARD SMITH	06999.0001-01000	5288

23380 7590 06/06/2005

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EXAMINER

ANGELL, JON E

ART UNIT	PAPER NUMBER
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1635

DATE MAILED: 06/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Notice of Non-Compliant Amendment

The amendment to the claims filed on 2/28/05 does not comply with the requirements of 37 CFR 1.121(c) because the claim listing filed 2/28/05 includes amendment to the claims which do not comply with 37 CFR 1.121(c). Amendments to the claims filed on or after July 30, 2003 must comply with 37 CFR 1.121(c) which states:

(c) *Claims.* Amendments to a claim must be made by rewriting the entire claim with all changes (e.g., additions and deletions) as indicated in this subsection, except when the claim is being canceled. Each amendment document that includes a change to an existing claim, cancellation of an existing claim or addition of a new claim, must include a complete listing of all claims ever presented, including the text of all pending and withdrawn claims, in the application. The claim listing, including the text of the claims, in the amendment document will serve to replace all prior versions of the claims, in the application. In the claim listing, the status of every claim must be indicated after its claim number by using one of the following identifiers in a parenthetical expression: (Original), (Currently amended), (Canceled), (Withdrawn), (Previously presented), (New), and (Not entered)...

(2) *When claim text with markings is required.* All claims being currently amended in an amendment paper shall be presented in the claim listing, indicate a status of "currently amended," and be submitted with markings to indicate the changes that have been made relative to the immediate prior version of the claims. The text of any added subject matter must be shown by underlining the added text. **The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters.** The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived. Only claims having the status of "currently amended," or "withdrawn" if also being amended, shall include markings. If a withdrawn claim is currently amended, its status in the claim listing may be identified as "withdrawn—currently amended." (Emphasis added for clarity)

In the instant situation, the claim listing filed 2/28/05 is improper because claim 32 comprises single brackets before the text of line 6 and after the end of text of line 8 of claim 32. As indicated in 37 CFR 1.121(c), **the text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters.** It appears that the text of lines 6-8 is intended to be deleted as lines 9-13 of claim 32 appear to replace lines 6-8. Therefore, the

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amendment filed 2/28/05 is not compliant with 37 CFR 1.121(c). Applicant should indicate the deletion by strike-through of the deleted text that is more than 5 characters long.

Since the reply filed on 2/28/05 appears to be *bona fide*, applicant is given a TIME PERIOD of **ONE (1) MONTH** or **THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to submit an amendment in compliance with 37 CFR 1.121 in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jon Eric Angell whose telephone number is 571-272-0756. The examiner can normally be reached on Mon-Fri, with every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John LeGuyader can be reached on 571-272-0760. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jon Eric Angell
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Anne-Marie Falk
ANNE-MARIE FALK, PH.D
PRIMARY EXAMINER